



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[EPA-HQ-OAR-2006-0971; FRL-7966-02-OAR]

RIN 2060-AU94

National Volatile Organic Compound Emission Standards for Aerosol Coatings Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to amend the National Volatile Organic Compound (VOC) Emission Standards for Aerosol Coatings, which establishes reactivity-based emission standards for the aerosol coatings category (aerosol spray paints) under the Clean Air Act (CAA). In this action, the EPA is proposing to update coating category product-weighted reactivity limits for aerosol coatings categories; add new compounds and reactivity factors (RFs); update existing reactivity values; revise the default RF; amend the thresholds for compounds regulated by this document; and add electronic reporting provisions.

DATES: *Comments.* Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Public Hearing: If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, the Agency will hold a virtual public hearing. See SUPPLEMENTARY INFORMATION for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2006-0971, 40 Code of Federal Regulations (CFR) part 59, subpart E, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).
Follow the online instructions for submitting comments.
- E-mail: a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2006-0971 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2006-0971.

Instructions: All submissions received must include the Docket ID No. EPA-HQ-OAR-2006-0971 for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room closed to public visitors on March 31, 2020 to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The Agency encourages the public to submit comments via <https://www.regulations.gov/> or email, as there is a temporary suspension of mail delivery to EPA, and no hand deliveries are currently accepted. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For information about the National Volatile Organic Compound Emission Standards for Aerosol Coatings, contact Ms. J. Kaye Whitfield, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Minerals and Manufacturing Group (D243-04), Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2509; fax number (919) 541-4991; and e-mail address: whitfield.kaye@epa.gov. For questions related to enforcement, contact Mr. John Cox, Office of

Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, U.S. EPA WJC South Building (2221A), Pennsylvania Avenue, NW, Washington, DC 20460; telephone number; (202-564-1395); and email address: *cox.john@epa.gov*. For questions regarding electronic reporting, contact Ms. Theresa Lowe, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Measurement Policy Group (D243-05), Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4786; and email address: *lowe.theresa@epa.gov*.

SUPPLEMENTARY INFORMATION:

Entities Potentially Affected by This Action. The entities potentially affected by this regulation include manufacturers, processors, wholesale distributors, or importers of aerosol coatings for sale or distribution in the United States, or manufacturers, processors, wholesale distributors, or importers who supply the entities listed above with aerosol coatings for sale or distribution in interstate commerce in the United States. The entities potentially affected by this proposed action include those listed in the North American Industry Classification System codes 32551 and 325998. This list is not intended to be exhaustive, but rather provides a guide for entities likely to be affected by this action. To determine whether you would be affected by this action, you should examine the applicable industry description in section I.E of the promulgation preamble, published at 73 FR 15604 (March 24, 2008). If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate EPA contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Obtaining a copy of this document and other related information. In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission>. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the proposal and key technical documents at this same website.

The proposed changes to the regulatory text in the CFR that would be necessary to incorporate the changes proposed in this action are set out the document titled *Proposed Regulation Edits for 40 CFR Part 59, subpart E* in the docket for this action (Docket ID No. EPA-HQ-OAR-2006-0971). This document includes the specific proposed amendatory language for revising the CFR and, for the convenience of interested parties, a redline version of the regulations. Following signature by the EPA Administrator, the EPA will also post a copy of this memorandum and the attachment to <https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission>.

Participation in virtual public hearing. Please note that the EPA is deviating from its typical approach for public hearings because the President declared a national emergency. Due to the current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov. If requested, the virtual hearing will be held on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The hearing will convene at 9:00 a.m. Eastern Time (ET) and will conclude at 3:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at <https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission>.

Upon publication of this document in the *Federal Register*, the EPA will begin pre-registering speakers for the hearing, if a hearing is requested. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission> or contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov. The last

day to pre-register to speak at the hearing will be **[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at:

<https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to *whitfield.kaye@epa.gov*. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *<https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission>*. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates. If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2006-0971. All documents in the dockets are listed in <https://www.regulations.gov/>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either in the docket for this action, Docket ID No. EPA-HQ-OAR-2006-0971, or electronically at <https://www.regulations.gov/>.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0971. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made

available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The EPA encourages the public to submit comments via <https://www.regulations.gov/> as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that the Agency can respond rapidly as conditions change regarding COVID-19.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov/> or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not

contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2006-0971. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

Organization of this document. The information in this preamble is organized as follows:

I. Background

II. What amendments have been made to the National Volatile Organic Compound Emission Standards for Aerosol Coatings Rule?

III. Summary of Proposed Amendments to the National Volatile Organic Compound Emission Standards for Aerosol Coatings.

A. Table 1 to Subpart E of Part 59. – Product-Weighted Reactivity Limits by Coatings Category

B. Table 2 to Subpart E of Part 59.—2A Reactivity Factors, 2B Aliphatic Hydrocarbon Solvent Mixtures, and 2C Aromatic Hydrocarbon Solvent Mixtures

C. The Default Reactivity Factor

D. VOC Regulated Under This Rule

E. Electronic Reporting of Notifications and Reports

F. Test Methods

IV. Summary of Impacts

A. Environmental Impacts

B. Energy Impacts

C. Cost and Economic Impacts

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

B. Paperwork Reduction Act (PRA)

C. Regulatory Flexibility Act (RFA)

D. Unfunded Mandates Reform Act (UMRA)

E. Executive Order 13132: Federalism

F. Executive Order 13175 Consultation and Coordination with Indian Tribal Governments

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

I. National Technology Transfer and Advancement Act

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. Background

The EPA promulgated “The National Volatile Organic Compound Emission Standards for Aerosol Coatings,” in 2008 (73 FR 15604; March 24, 2008) and codified the action at 40 CFR

part 59, subpart E (sections 59.500– 59.516). The rule established nationwide VOC reactivity-based standards for the aerosol coatings source category. The statutory authority for this action is provided by section 183(e) of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 183(e) of the CAA requires the EPA to control VOC emissions from certain categories of consumer and commercial products for purposes of reducing VOC emissions contributing to ozone formation and nonattainment of the ozone national ambient air quality standards (NAAQS).

The EPA and states typically have promulgated rules for regulating VOCs from consumer products based upon reductions of VOC content in the products by mass. One state, California, promulgated a regulation for VOC emissions from aerosol coatings based on a relative reactivity approach. The EPA promulgated a national rule based upon the relative reactivity approach after concluding that the approach could achieve more reduction in ozone formation than may be achieved by a mass-based approach for this source category. The reactivity-based approach requires the EPA to revise the regulatory definition of VOC to include compounds that would otherwise be exempt, to account for all reactive compounds in aerosol coatings that contribute to ozone formation. Therefore, certain compounds that would not be VOC under the otherwise applicable definition for other purposes, do count towards the applicable reactivity-based limits of the aerosol coatings standards.

Regulated entities, encompassing all steps in aerosol coatings operations, include manufacturers, processors, wholesale distributors, or importers of aerosol coatings or their suppliers. There are approximately 46 regulated entities; however, two aerosol coatings companies account for about 70 percent of the U.S. market.¹

II. What amendments have been made to the National Volatile Organic Compound Emission Standards for Aerosol Coatings Rule?

The national emission standards for aerosol coatings (74 FR 29595; June 23, 2009) has been amended several times. In accordance with section 59.511(j), the EPA responded to an

¹ Email Conversation, American Coatings Association, March 29, 2021.

industry petition and added 128 compounds, corresponding reactivity factors, and Chemical Abstract Service (CAS) numbers for each compound or class of compounds listed in Table 2A. In addition, the Agency changed the definition of VOC in part 51 to clarify that compounds that are excluded from the definition of VOC under both 40 CFR 51.100(s)(1) and (s)(5) are to be counted as VOC for the purposes of determining compliance with the aerosol coatings reactivity rule in 40 CFR part 59, subpart E. In the same action, the EPA amended section 59.511(g) to ensure that both the certifying entity and the regulated entity have full knowledge of responsibilities assumed by the certifying entity. In a later action, the EPA responded to a second petition from industry and added three new compounds, reactivity factors, and CAS numbers to Table 2A of the rule. See 77 FR 14279 (March 9, 2012).

III. Summary of Proposed Amendments to the National Volatile Organic Compound Emission Standards for Aerosol Coatings.

The EPA is proposing to amend Tables 1 and 2 to subpart E of part 59, the default reactivity factor, VOC regulated by the rule, and requirements for submitting reports. The Agency is proposing these changes, in part, to respond to petitions from American Coatings Association (ACA) requesting revisions to the standards that promote consistency and uniformity, where appropriate, between California Air Resources Board (CARB) and national aerosol coatings regulations. For more information on the petitions submitted by ACA to the Agency, see the docket for this action, Docket ID No. EPA-HQ-OAR-2006-0971.

A. Table 1 to subpart E of part 59. – Product-Weighted Reactivity Limits by Coatings Category

The national rule establishes product-weighted reactivity limits, listed in Table 1, for each coating category. Compliance with these limits is determined by the mass weighted sum of the reactivity values of the VOC ingredients in the product. In this action, the Agency is proposing to update both the reactivity values of individual VOCs (in Table 2) and the limits for each coating category (in Table 1). These changes are intended to update the relative reactivity scale that underlies both the reactivity factors and limits; to further decrease the contribution of aerosol

coatings to ozone formation; and to make the national rule consistent with the California regulation to improve ease of compliance and implementation.

When considering updates to coating categories and emission limits in Table 1, the EPA consulted with CARB and reviewed CARB's rationale² for changes made to California's aerosol coatings regulations since promulgation of the EPA national regulation. The Agency then met with ACA to discuss their concerns. Based on the outcome of these consultations, the Agency is proposing to adopt category names and limits identical to those in the CARB aerosol coatings regulation. The proposed amendments will increase clarity and promote consistency between California and national aerosol coatings regulations, one of the stated objectives of the ACA petition.

Accordingly, the Agency is proposing to combine two sets of coatings subcategories into two main categories and to add corresponding limits for those categories, as follows:

The subcategories "enamel," "lacquer," and "clear or metallic" coatings will be subsumed under the category heading, "Hobby/Model/Craft Coatings," and the category limit will be set equal to 1.6 g O₃/g VOC. The subcategories "clear" and "pigmented" coatings will be subsumed under the category heading, "Shellac Sealers," with the category limit set equal to 1.00 g O₃/g VOC.

The EPA also is proposing to add six new specialty coating categories and corresponding limits for those categories, as follows:

"Electrical/Electronic/Conformal Coatings," with a category limit set equal to 2.00 O₃/g VOC; "Flexible Coatings," with a limit equal to 1.60 O₃/g VOC; "Mold Release Coatings," with a limit equal to 1.10 O₃/g VOC; "Rust Converter," with a limit equal to 1.10 O₃/g VOC; "Two

² Proposed Amendments to the Antiperspirant and Deodorants Regulation, the Consumer Products Regulation, the Aerosol Coating Products Regulation, the Tables of MIR Values, Test Method 310, and Proposed Repeal of the Hairspray Credit Program; Date of Release: August 7, 2013, Scheduled for Consideration: September 26, 2013.

Component Coating,” with a limit equal to 1.20 O₃/g VOC; and “Uniform Finish Coating,” with a limit equal to 1.30 O₃/g VOC.

For a complete list of proposed changes to Table 1, see *Proposed Regulation Edits for 40 CFR part 59, subpart E*, located in the docket for this action, EPA Docket ID No. EPA-HQ-OAR-2006-0971.

B. Table 2 to subpart E of part 59.—2A Reactivity Factors, 2B Aliphatic Hydrocarbon Solvent Mixtures, and 2C Aromatic Hydrocarbon Solvent Mixtures

The EPA is proposing to amend Tables 2A, 2B, and 2C by adding new compounds and RFs and updating existing reactivity values. The proposed changes will provide uniformity between CARB³ and national aerosol coatings regulations (73 FR 15604). California uses maximum incremental reactivity (MIR) values⁴ as the basis for its aerosol coatings regulations. In the national rule, the Agency uses the term “reactivity factor” and sets the value equal to the MIR or upper limit MIR used by CARB.

In accordance with 40 CFR part 59, subpart E, section 59.511(j), ACA submitted petitions requesting the EPA add 17 new compounds and RFs to Table 2A and update the RF of one existing compound mixture on Table 2B. The petitioners provided the chemical names, CAS numbers, a statement certifying the intent to use the compounds in aerosol coatings products, and information allowing the EPA to evaluate the reactivity of the compounds and assign RF values. Of the 17 new compound additions to Table 2A, CARB has assigned MIR values for 15 of the compounds in California’s aerosol coatings regulation,⁵ which the Agency is proposing to adopt in this action. The proposed RFs of the two remaining compounds are equal to 0.04 g O₃/g VOC for trans-1-chloro-3,3,3-trifluoropropene (HFO-1233zdE), CAS 102687-65-0, based on MIR

³ Title 17, California’s Regulation, Division 3, Chapter 1, Subchapter 8.5, Article 3, Aerosol Coatings Products, Sections 94520-94528 (Amended September 17, 2014).

⁴ Title 17, CCR, Article 1, Tables of Maximum Incremental Reactivity Values, Sections 94700-94701 (Amended September 17, 2014).

⁵ Ibid.

values from Carter⁶; and 0.71 g O₃/g VOC for diethyl carbonate, CAS 105-58-8, based on MIR values derived by Venecek.⁷

One of the compounds being added, dipropylene glycol monomethyl ether, CAS 34590-94-8, is a mixture of isomers. The compound, 2-[2-methoxypropoxy]-1-propanol, CAS 13588-28-8, which is an isomer of dipropylene glycol monomethyl ether, is already on Table 2A. Both compounds are assigned the same RF.

In addition to adding the identified compounds, the Agency is proposing to update all of the existing reactivity factors listed in Table 2A, 2B, and 2C to align with the MIR values in the current California regulation.⁸ This change is necessary to maintain the internal consistency of the relative reactivity scale and consistency with the changes proposed for the limits in Table 1.

For a complete list of proposed changes to Table 2, see *Proposed Regulation Edits for 40 CFR part 59, subpart E* in the docket for this action, EPA Docket ID No. EPA-HQ-OAR-2006-0971.

C. The Default Reactivity Factor

The ACA petition requested the EPA revise the default RF for compounds in aerosol coatings formulations that do not have an established RF listed in Table 2A to subpart E of part 59 – Reactivity Factors. Consistent with the EPA’s methodology for setting the default RF, if a VOC does not have an RF, then the EPA assigns the compound the maximum RF for any compound listed in the rule. See 72 FR 38952 (July 16, 2007). Therefore, the EPA is proposing to revise the default RF to 18.50 g O₃/g VOC, the highest RF in this proposed rule. Furthermore, the EPA is proposing to require that regulated entities include the name and CAS number of all VOCs that are assigned the default RF, as specified in reporting requirements.

⁶ Carter, William (2009). Investigation of Atmospheric Ozone Impacts of Trans 1-Chloro-3,3,3 - Trifluoropropene, Final Report. Riverside, California: Center for Environmental Research and Technology, University of California.

⁷ Venecek, Melissa (2020). Estimating Maximum Incremental Reactivity for Diethyl Carbonate. Final Report. Sacramento, California: Technical Development Section, Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, California Air Resources Board.

⁸ Title 17, CCR, Sections 94700-94701.

The EPA also is proposing that, if a VOC is used in a product and is not listed in Table 2A, but its isomer is listed in Table 2A, then the RF of the isomer will be used. If more than one isomer of that VOC, or mixtures of the isomers of that VOC, is listed in Table 2A, then the highest RF associated with the listed isomers or isomer mixtures will be used.

D. VOC Regulated Under This Rule

In conjunction with promulgating the initial aerosol coatings regulations, the EPA amended the regulatory definition of VOC by adding 40 CFR 51.100(s)(7), which removes the exemption of specific organic compounds identified in paragraphs (s)(1) and (s)(5) from the definition of VOC for purposes of compliance with the aerosol coatings emission limits. To eliminate consideration of VOC that make *de minimis* contributions to a product's reactivity, the EPA also excluded from the applicable limits, those compounds (a) that contribute less than 0.1 percent of the product weight (regardless of their RF), and (b) that have reactivities less than ethane and comprise less than 7.3 percent of product weight. The EPA explained the basis for the derivation of the 7.3 percent threshold in the original rulemaking and its relationship to the RF for ethane and the default RF (73 FR 15604).

In this action, the EPA is proposing to retain part (a), where compounds that comprise less than 0.1 percent of the product weight are excluded from the product's mass-weighted reactivity. The EPA is proposing to eliminate part (b), the exclusion of low reactivity compounds that comprise more than 0.1 percent but less than 7.3 percent of the product weight. Eliminating this exclusion should have little impact on the ability of product formulations to comply with product-weighted reactivity limits, as the affected compounds have low RFs and contribute a small percentage of product weight. These two proposed actions, in combination, will make the EPA's national regulation consistent with the CARB aerosol coatings regulation.

When considering the elimination of VOC that make *de minimis* contributions to a product's reactivity, the Agency is soliciting comment on the proposal to retain part (a) above, where compounds that comprise less than 0.1 percent of the product weight are excluded from

the product's mass-weighted reactivity, and eliminate part (b), the exclusion of low reactivity compounds that comprise more than 0.1 percent but less than 7.3 percent of the product weight.

E. Electronic Reporting of Notifications and Reports

The EPA is proposing to revise the existing aerosol coatings rule to require that regulated entities submit electronic copies of required notifications and reports in template format through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI), instead of the current hard copy submission requirement. A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, available in the docket for this action. For the nine notification and reports, (Temporary Variances, Initial Notification, Change to Information in Initial Notification, Response to Written Notification, Exemption Claim Initial Notification, Exemption Claim Annual Report, Notice of Certifying Entity to Maintain Records, Notice Rescinding Certification and Triennial Report), the proposed rule requires that regulated entities use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed spreadsheet template for these notifications and reports is included in the docket. The EPA specifically requests comment on the content, layout, and overall design of the spreadsheet template, which can be found in the docket, EPA Docket ID No. EPA-HQ-OAR-2006-0971 and posted online at <https://www.epa.gov/stationary-sources-air-pollution/aerosol-coatings-national-volatile-organic-compound-emission>.

Additionally, the EPA has identified two broad circumstances in which it may provide extensions of the electronic reporting deadlines. These circumstances are (1) outages of the EPA's CDX or CEDRI which preclude a regulated entity from accessing the system and submitting required reports, and (2) *force majeure* events, which are defined as events that will be or have been caused by circumstances beyond the control of the regulated entity from complying with the requirement to submit a report electronically by the applicable deadline.

Examples of *force majeure* events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the regulated entity. The EPA is providing these potential extensions to protect regulated entities from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated entities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated entities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan⁹ to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy¹⁰ developed in response to the White House's Digital Government Strategy.¹¹ For more information on the benefits of electronic reporting, see the memorandum titled, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, referenced earlier in this section.

⁹ Improving Our Regulations: Final Plan for Periodic Retrospective Reviews, August 2011. Available at: <https://www.regulations.gov/search?filter=EPA-HQ-OA-2011-0156-0154>.

¹⁰ E-Reporting Policy Statement for the EPA Regulations, September 2013. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf>.

¹¹ Digital Government: Building a 21st Century Platform to Better Serve the American People, May 2012. Available at: <https://www.regulations.gov/document/EPA-HQ-OAR-2010-0682-0755> or <https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html>.

F. Test Methods

Although the EPA is proposing no new technical standards in this action, the Agency is soliciting comment on whether to amend this rule to require the use of the updated versions of the two existing test methods currently identified in the rule: CARB Method 310, “Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products,” updated May 25, 2018; and ASTM D523–89 (1999), “Standard Test Method for Specular Gloss,” currently named ASTM Method D523-14 (2018), updated May 1, 2018.

IV. Summary of Impacts

This section presents a summary of the impacts expected as a result of this proposed rule.

A. Environmental Impacts

There are no anticipated environmental impacts from compliance with this proposed rule. The proposed revisions are minor and not expected to result in net changes to an aerosol coating product’s potential to form ozone because the overall average changes to the values used to measure reactivity, i.e., category emission limits and reactivity factors, are small compared to the values in the original rule. The proposed action is, however, expected to improve upon the original rule by ensuring updates are made (e.g., adds new compounds, updates reactivity factors, and adds electronic reporting) that promote consistency and uniformity between state and national regulations. As such, this proposed action would maintain the level of environmental protection to populations in affected ozone nonattainment areas without having any disproportionately high and adverse human health or environmental effects on any populations, including any minority or low-income populations.

B. Energy Impacts

There are no adverse energy impacts anticipated from compliance with this proposed rule.

C. Cost and Economic Impacts

There are no adverse economic impacts anticipated from compliance with this proposed rule. This action primarily updates reactivity tables and factors and adds electronic reporting provisions.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a “significant regulatory action” and was, therefore, not submitted to OMB for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0617. There is no increase in burden associated with this action because the rule primarily adds compounds and reactivity factors, updates category limits and reactivity factors, and adds electronic reporting provisions. The burden associated with the proposed change from paper to electronic reporting would not change as a result of this action, at least in the short term, because regulated entities will need time to become familiar with the new reporting scheme and template. In the long term, the Agency anticipates that electronic reporting, which is more efficient than paper reporting, would reduce the burden as regulated entities become more familiar with the electronic reporting process. The EPA expects the decrease in burden estimates resulting from electronic reporting would be reflected in future updates to the ICR for this rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This rule will not impose any requirements on small entities. The EPA has determined that small businesses will not incur any adverse impacts because the Agency is taking this action to amend the aerosol coatings rule primarily by updating coating categories in Table 1 and adding compounds to Table 2 of the rule and adding an electronic reporting provision. These amendments do not create any new requirements or burdens, and no costs are associated with these amendments. The Agency has, therefore, concluded that this proposed rule will not pose any additional regulatory burden for all affected small entities.

The EPA continues to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175 Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The proposed regulatory action does not have a substantial direct effect on one or more Indian tribes, in that this action imposes no regulatory burdens on tribes. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern increase in an adverse or environmental health risk or safety risk that disproportionately affects children.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

The rule involves technical standards; however, no new technical standards are being proposed in this action.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice.

As stated in section VI of the preamble of this action, there are no anticipated adverse environmental impacts and no adverse economic impacts anticipated from compliance with this rule. As stated in section I of this action, section 183(e) of the CAA requires the control of VOC emissions from certain categories of consumer and commercial products for purposes of reducing VOC emissions contributing to ozone formation and nonattainment of the ozone NAAQS. The health and environmental risks associated with ozone were considered in the establishment of the ozone NAAQS. The level is designed to be protective of the public with an adequate margin of safety. Accordingly, these actions would help increase the level of environmental protection to populations in affected ozone nonattainment areas without having any disproportionately high and adverse human health or environmental effects on any populations, including any minority or low-income populations.

Michael S. Regan,

Administrator

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